

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEITH DESMOND TAYLOR,

Plaintiff,

v.

MICHAEL SMITH,

Defendant.

Case No. [17-cv-00809-EMC](#)

ORDER OF DISMISSAL

Docket No. 1

Plaintiff, an inmate on death row at San Quentin State Prison, filed this action under 42 U.S.C. § 1983 against the judge who presided over his death penalty case in San Bernardino County Superior Court in 1996. Plaintiff alleges that Judge Smith erroneously allowed certain fingerprint evidence at the trial in 1996. Plaintiff requests damages and release from custody. Docket No. 1 at 3.


The complained-of events and omissions occurred in San Bernardino County, which is located within the venue of the Central District of California. The only defendant apparently resides in San Bernardino County. No defendant is alleged to reside in, and none of the events or omissions giving rise to the complaint occurred in, the Northern District of California. Venue therefore would be proper in the Central District, and not in this one. *See* 28 U.S.C. § 1391(b). The court “shall dismiss, or if it be in the interest of justice, transfer” an action that has been filed in the wrong venue. 28 U.S.C. § 1406(a). This is the third time Plaintiff has filed an action against Judge Smith for alleged errors in the trial in San Bernardino County Superior Court. In the first action against Judge Smith, *Taylor v. Smith, et al.*, N. D. Cal. No. 09-cv-3009 MMC, the claims against Judge Smith were dismissed as filed in the wrong venue and without prejudice to Plaintiff filing an action in the Central District. The second action against Judge Smith, *Taylor v.*

1 *Smith*, N.D. Cal. No. 13-cv-4550 EMC, was dismissed as filed in the wrong venue, with an
2 explanation that transfer was not appropriate since Plaintiff already had been informed that the
3 Central District, rather than the Northern District, of California was the proper venue for his
4 claims. In light of the earlier orders explaining that the Northern District is not the correct venue
5 for an action against Judge Smith, there was no reason for Plaintiff to repeat his mistake. It is not
6 in the interest of justice to transfer this action because it unnecessarily consumes limited judicial
7 resources for the transferring court to process a case filed by a plaintiff who knowingly files his
8 case in the wrong district.

9 Accordingly, this action is DISMISSED because it was filed in the wrong venue. This
10 dismissal is without prejudice to Plaintiff pursuing his claims in the Central District of California.
11 The Clerk shall close the file.

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13 **IT IS SO ORDERED.**

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15 Dated: June 9, 2017

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18 EDWARD M. CHEN
19 United States District Judge
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